

## ***Mandatory Financial Disclosures***

by Mark Christensen



If you have financial accounts outside the United States, there may be up to three mandatory reporting requirements you have to meet in order to disclose those accounts to the U.S. Government. Although you're probably not involved in money laundering or the hiding of assets in off-shore accounts, you might have to disclose non-U.S. financial assets to the IRS.

These disclosure requirements do not apply to financial accounts held in U.S.-based financial institutions. For instance, if you have accounts in the U.S.-based credit unions or banks found on most U.S. military installations in Europe, those accounts do not trigger a requirement to report to the IRS.

These rules apply to U.S. persons, defined by the IRS as citizens and residents of the United States. This includes resident aliens (holders of lawful permanent resident status, or green card) who live in the U.S., as well as resident aliens who live outside the U.S. pursuant to military or civilian employment orders with the U.S. Government or U.S. military. Foreign persons are not subject to non-U.S. financial account disclosure rules. Foreign persons include nonresident aliens such as spouses of U.S. citizens who do not have resident or citizenship status with the U.S.

The first requirement is for filers of U.S. tax returns who have a non-U.S. financial account or accounts that had a combined value of over \$10,000 at any time during the tax year. If you did, answer "Yes" on Line 7a of Schedule B, and indicate the country where the account is located on Line 7b. Taxpayers who transferred money into or received money from a foreign trust must answer "Yes" on Line 8 of Schedule B, and may also have to file Form 3520. Form 3520 is not filed with the tax return, but is sent separately to the IRS.

The second requirement is for U.S. persons who have non-U.S. accounts for which the total combined and converted value exceeded \$10,000 at any time during the year. This is done on Form TD F 90-22.1 (*Report of Foreign Bank and Financial Accounts*, or FBAR). FBAR is filed separately from a tax return [the form must be sent to a U.S. Treasury Department address in Detroit which appears on the form] and is due on June 30 of the following year. For instance, if you had one or more non-U.S. accounts and the total value exceeded \$10,000 (converted to dollars using currency exchange rates) on any day during the year, you must file the FBAR by June 30 of the next year. You must also retain proof of the non-U.S. accounts for five years.

The third requirement derives from the Internal Revenue Code, IRC §6038D. This new section requires U.S. taxpayers with foreign accounts and assets with an aggregate value exceeding \$50,000 to report them on an informational return, starting with tax years beginning after March 18, 2010. The IRS has not yet issued guidance for how this disclosure is to be done; at this time it is up to taxpayers to make the disclosure in the way they deem best. Form 8275, *Disclosure Statement*, is one option, and should be filed with Form 1040. This disclosure, if applicable, is in addition to any FBAR requirement.

Note that filings to the IRS (Schedule B and Form 8275) are protected by the same confidentiality rules that govern tax returns. The FBAR is filed with the Treasury Department, and is not subject to the same confidentiality protections as tax returns.

***If you have questions about mandatory financial disclosures or other income tax issues, e-mail them to: [tax@eur.army.mil](mailto:tax@eur.army.mil)***

***If you have questions about other legal assistance issues, e-mail them to: [legal@eur.army.mil](mailto:legal@eur.army.mil)***